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January 29, 2007

President George Dunham
Tropical Bay Property Owner's Assn
P.O. Box 430522
Big Pine Key Fl 33043

RE: Opinion Letter on Assessment Equality

Dear George and Maryann:

You have asked my opinion about assessments being imposed on all lot owners in Tropical Bay Subdivision for the mowing service provided on the vacant lots, but not the existing constructed residential lots, and the cost of mangrove trimming, as a part of the budget, and therefore assessment, equally on all unit owners.

In reviewing the Amended Deed Restrictions on Tropical Bay the answer to the question posed is clearly set out on page 6 of the Amended Deed Restrictions, paragraph "Annual and Special Assessments" paragraph 1, which states:

"Both annual and special assessments must be fixed at a uniform rate for all lots regardless of square footage area."

This prohibits the Association from assessing any other than a uniform assessment on all lots irrespective of whether they have a residence built, or are a vacant lot. In your amendment process it would be relatively easy to add a phrase to this sentence that states "unless such annual or special assessments provide services that disproportionately benefits one lot over another, in which case the assessment may be increased or decreased to reflect that disproportionate impact or service", or words to that effect.

Nevertheless, I would caution against making such an amendment. The opportunity for disagreement over the value or amount of the "disproportionate impact or benefit" could become contentious, administratively difficult to impose, and an unnecessary source of friction between your members.

At present the argument exists that the constructed lots should not be paying for the mowing of the vacant lots. An equal argument could be made that the lots on canals without

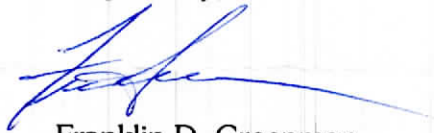
mangroves should not be paying for the mangrove trimming for the lots that have mangroves. This disproportionate impact argument, while sound on its face, misses a very important point. The property values at Tropical Bay have always been higher than all of the residential subdivisions in Big Pine, and even in the Lower Keys. Considering Tropical Bay's geographic isolation, that consistent high value can only be attributed to the care and beautification that the Association has provided the entire subdivision. That point is easily demonstrated when you drive through other subdivisions where vacant lots are allowed to be covered with weeds, debris and trash and become an eyesore for the surrounding neighborhood.

The same argument can be made for the mangrove trimming as (1) virtually all the houses in Tropical Bay are on a canal and (2) all boat owners, whether on a canal or not, or residents or visitors, use the canal under the bridge for ocean access where the mangrove trimming is most important and, at least historically, was the most expensive.

Everyone at Tropical Bay has benefitted by the services performed by the Association, and is protected by the insurance the Association provides. The true allocation of value would be to measure the increase in value of lots in Tropical Bay over the last 10 years, in comparison to similar residential subdivisions on Big Pine Key that did not provide similar services to their owners and you will find that the increase in value is evenly spread on all lots in Tropical Bay Subdivision

Perhaps another reason for honoring the fact that the acts of the Association benefit all the lot owners may be found in 1 Corinthians 13. The whole Chapter is apt, but it is summarized in verse 26: "*And whether one members suffer, all the members suffer with it; or one member be honored, all the members rejoice with it.*" The Tropical Bay Property Owners Association has provided valuable services that have created real value to its members. That is something to be proud of, and arguments over who is paying more or less diminishes the benefits all have shared.

Respectfully,



Franklin D. Greenman

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